

**MOTOR VEHICLE DEALER BOARD
MINUTES
December 20, 2016**

The regular meeting of the Dealer Board was held at the Department of Revenue offices, Lakewood, Colorado.
The following persons were present:

BOARD MEMBERS:

Robert Endter
Joseph Gebhardt
Lucky Heggs
Michael Jorgensen
Chris Langley
Stan Martin
Steven Perkins

MEMBERS ABSENT:

Justin Franks
Dominic Scrivner

SENIOR DIRECTOR OF ENFORCEMENT:

Ron Kammerzell

EXECUTIVE SECRETARY:

Bruce Zulauf

LEGAL ASSISTANT:

Leland Bebee

**DEPT OF REVENUE,
AID, ENFORCEMENT
DIVISION STAFF:**

Chris Rouze
Chris Hartman
Gloria Breedon
John Opeka
Cheryl Morrison
Erika Garcia
Michael Harlost
Tim Rotter
Eric Teklu
Mark Kelley
Nit Hamby
Arleen Criddell Tapanen

ATTORNEY GENERAL'S OFFICE:

Y.E. Scott
Skip Spear
Rebecca Connors

VISITORS:

Fleance Clay, Prestige Dodge
Lori Church, John Elway Dealerships
Eric Hartsough, Dealer Services
Farnaz Nejati, Community Auto Center
Saeid Nejati, Community Auto Center
Elberto Manjarres
Fred Agado, Prestige Dodge
Tammi McCoy, CADA
Art Erwin, Christopher's Dodge World
Aaron Williams, WD Equipment LLC
Marlon G. Hall, WD Equipment LLC
Tim Jackson, CADA

President, Joseph Gebhardt, opened the meeting of December 20, 2016 at 9:05 a.m. Mr. Gebhardt turned the floor over to Executive Secretary, Bruce Zulauf.

AGENDA REVIEW AND ANNOUNCEMENTS

Mr. Zulauf informed the Board there were no changes to the agenda as posted. Messrs. Franks and Scrivner will not be in attendance today. Conflicts Counsel, Skip Spear, will advise the Board during the scheduled Exceptions hearing. Mr. Zulauf will present a draft memorandum of proposed Sunset review recommendations for Board discussion.

Ms. Y.E. Scott is retiring from the Attorney General's office and Brandon Reese has temporarily been assigned to the Board as General Counsel.

MINUTES

The minutes of the November 15, 2016 meeting were approved unanimously.

BACKGROUND INVESTIGATIONS TEAM

Ms. Breeden presented the following to the Board:

Dealer Applications:

- **Toney Auto Sales #43701** – Motion to grant the license – approved unanimously.

Salesperson Applications:

- **Allen, John Ben #194320** – Motion to deny the license based on unfitness of licensing character, unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **DeYulia, Richard Steven #194564** – Motion to deny the license based on unfitness of criminal character, unfitness of financial character and having been convicted of a misdemeanor under title 18 or any felony – approved unanimously.
- **Johnson, Lawrence Olivier #193009** – Motion to deny the license based on unfitness of criminal character and unfitness of financial character – approved 5-1 (Jorgensen opposed).
- **Manjarres, Elberto Mauricio #164373** – Motion to grant the license – approved unanimously.
- **Clay, Fleance Leigh #194144** – Motion to grant the license – approved unanimously.

INVESTIGATIONS REPORT

Ms. Rouze presented the following to the Board:

Statistical Reporting – Ms. Rouze informed the Board that we started with 300 cases, 130 new cases were opened and 155 cases were closed for the month, giving the Division a balance of 275 open cases. There were 296 background inquiries performed.

Affidavits of Probable Cause:

Mr. Heggs recused himself and left the room.

- **Brandon Dodge on Broadway, DL #41767** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Brandon Dodge on Broadway, Dealer #41767; and that the case be assigned to the Colorado Motor Vehicle Dealer Board for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.

Mr. Heggs returned to the room.

- **Century Auto, Inc., DL #40220** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Century Auto, Inc., Dealer #40220; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Durango Ford Lincoln, DL #42387** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Durango Ford Lincoln, Dealer #42387; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Durango Kia, DL #42385** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Durango Kia, Dealer #42385; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Durango Toyota, DL #42386** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Durango Toyota, Dealer #42386; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Durango Value Autos, DL #42862** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Durango Value Autos, Dealer #42862; and that the case be assigned to the Office of Administrative Courts for a hearing on the merits and that the Executive Secretary be permitted to engage in settlement negotiations pursuant to C.R.S. 12-6-104 – approved unanimously.
- **Rush Truck Center, Denver, DL #8865** – Motion that the Board finds probable cause based upon the Affidavit of Probable Cause presented to the Board today respective to Rush Truck Center, Denver, Dealer #8865 – approved unanimously.

EXECUTIVE SECRETARY'S REPORT

Mr. Zulauf presented the following to the Board:

- **Proposed Stipulation and Final Agency Order – Rush Truck Center, Denver, Dealer #8865** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – HIS Motorcar Co., LLC, and Dealer #39843** – Motion to reject the Proposed Stipulation and Final Agency Order. Executive Secretary will renegotiate and amend stipulation – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Mountain States Toyota and Scion, Dealer #36975** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – AFG Auto Sales, LLC, Dealer #42539** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Columbine Ford, Dealer #42433** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.
- **Proposed Stipulation and Final Agency Order – Big Bear Motors, LLC, Dealer #35861** – Motion to accept the Proposed Stipulation and Final Agency Order – approved unanimously.

Ms. Scott recused herself and left the room.

- **Initial Decision – Joshua Maliszewski, Salesperson License #184645** – Motion was made to accept the Findings of Fact, Conclusions of Law and modify the recommended Order to revoke the license – approved unanimously.

Ms. Scott returned to the room. Board took a 15 minute break.

REVIEW OF INITIAL DECISIONS UPON FILING OF EXCEPTIONS

Case #SD16-1684

Marlon Garnell Hall – Licensee/Respondent

Marlon Garnell Hall, pro se, appearing on his own behalf

Rebecca A. Connors, Esq., Assistant Attorney General, appearing on behalf of the State

Oral arguments were heard pursuant to the exceptions process.

After Board discussion, a motion was made to affirm the Findings of Fact and Conclusions of Law and uphold the Recommended Order – passed 5-1 (Langley opposed).

BOARD DISCUSSION – 2016 DORA SUNSET REVIEW

The Executive Secretary prepared a draft memorandum for the Board of the Sunset review recommendations for their formal assessment. The Board and the Executive Secretary discussed the memorandum at length.

A motion was made to adopt the memorandum as presented – passed unanimously.

New Business – No new business.

Public Comment – No public comment.

The meeting of the Motor Vehicle Dealer Board was adjourned at 12:15 p.m.

(Note: The Minutes of the Motor Vehicle Dealer Board summarize the contents of the meeting. They are not verbatim transcripts and are based principally upon the digital recording of the meeting and upon the later collaboration of staff attendees to ensure that the summary faithfully captures the matters before the Board and the actions the Board took. The digital recording of the meeting is a permanent record of the Board, retained in the electronic filing system of the Auto Industry Division, and is available as a resource for review, as needed.)

Bruce Zulauf
Executive Secretary